IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.11.2006

CORM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
and
THE HON'BLE MR. JUSTICE S. TAMILVANAN

Writ Petition No.28214 of 2003
and WPMP.No.34467 of 2003
..

A. Jenasenan .. Petitioner

Vs.

The Member Secretary
Chennai Metropolitan
Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 8. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr. R. Krishnamoorthy,Sr. Counsel
for Mr. V. Ayyadurai

For respondent : Mr. J. Ravindran

ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

Aggrieved by the proceedings of the respondent dated Nil, July, 2003, made in Letter REG. No.1/B-4 (BC1)/51809/2000, the petitioner has filed the above writ petition to quash the same and conseuqently, direct the respondent to regularise the building situate at No.S-13, Pulambedu Village (Noombal) Velappan Chavadi, comprised in Survey No.13/2B/1, by accepting the registration fee already paid by him as per the Rules.

2. Heard Mr. R.Krishnamoorthy, learned senior counsel for the petitioner as well as Mr. J. Ravindran, learned counsel for the respondent.

3. In the light of the order to be passed hereunder, we are of the view that there is no need to traverse all the factual details as stated in the affidavit filed by the petitioner and in the counter affidavit of the respondent. However, one factual aspect is clear that the petitioner had commenced construction process during Augst, 1998 and completed the same in February,

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1999. In such circumstances, even if there is any violation, the direction / observation in para 32 (xi) of the Division Bench decision of this Court in the case of Consumer Action Group vs. The State of Tamil Nadu reported in 2006 (4) CTC 483, is applicable to the case on hand.

4. In addition to the same, learned senior counsel for the petitionr has brought to our notice that the impugned proceeding was issued without providing an opportunity to the petitioner. According to him, on the ground of violation of principles of natural justice, the impugned notice is to be quashed. On the other hand, learned counsel appearing for the respondent submitted that there is no compulsion on the part of the respondent to afford an opportunity as claimed by the learned senior counsel for the petitioner.

5. In view of the factual position, viz., the building was constructed and completed before February, 1999, the observation / direction issued by the Division Bench referred to above is applicable to the present case, we are of the view that ends of justice would be met by asking the respondent to re-do the exercise after affording an opportunity to the petitioner. On this ground, without going into the merits of the claim made by the petitioner as well as the stand taken by the respondent in the impugned proceedings, the same is quashed. The respondent is permitted to issue notice to the petitioner furnishing all the details and pass appropriate ordes after affording opportunity of hearing to the petitioner.

6. In view of the fact that the petitioner had the benefit of interim order even as early as on 21.11.2003 and continued till this date, we make it clear that same shall continue till fresh decision being taken by the respondent as ordered above.

The writ petition is ordered accordingly. No costs. Consequently, connected WPMP., is closed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To
The Member Secretary Chennai Metropolitan
Development Authority No.1, Gandhi Irwin Road,Egmore, Chennai 8.

+ 2 ccs to Mr. V. Ayyadurai, Advocate SR No. 54431 and 54676
+ 1 cc to Mr. J. Ravindran, Advocate SR No. 54652

SR(CO)
SR/23.11.2006

Order in
W.P.No.28214 of 2003

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